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AN
ARGUMENT
UPON
THE JUSTICE AND EXPEDIENCY
OF THE
ORDER
ISSUED BY
GOVERNMENT,

FOR THE
DETAINING ALL SHIPS BOUND TO THE
PORTS OF SPAIN,

FREIGHTED WITH
TREASURE OR WARLIKE STORES.

Quid dicta audiam cum, facta videam?

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1805.

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T. Gillet, Printer, Salisbury-square.

AN
ARGUMENT,

Uc. Uc.

QUID DICTA AUDIAM, CUM FACTA VIDEAM?

WHEN we concluded the treaty of Amiens, we were aware that Spain was united with France by a defensive and *offensive* alliance: that by this alliance the former was bound to assist the latter, upon requisition, in any war in which France might be engaged, with 12000 troops, and 15 sail of the line.

And there was an additional secret article, that in case of necessity the two powers should assist each other with all their forces.

It is evident that as we were informed of this treaty, at the time of ratifying the peace of Amiens, we conceived ourselves subject, upon any subsequent breach with France, to be probably, if not necessarily, involved at the same time in a war with Spain.

And we were bound to use the utmost vigilance with regard to the latter power; especially as she was in such a state of political dependence on the former, as not to be able to reserve to herself a judgment on the *casus fœderis*; for she might feel herself equally necessitated, either from impotence or servility, to fulfil her hostile engagement not only in a just war, which would confirm her treaty, but also in an unjust war, which by the law of nations would suspend it.

We have, therefore, ever since the renou-

vation of hostilities with France, a clear right to consider any attempt of the Spaniards to carry into execution their *offensive* alliance with that power, as a formal act of hostility.

For there could be but two methods which, under that treaty, Spain could take to justify us in believing her intentions to be permanently pacific, neither of which has she adopted.

First, if, upon alleging the unprincipled conduct, and ambitious designs of France, as a proof that the war with us was unjust, she had openly declared that her treaty with that power was, on that ground, not binding.

Secondly, if, without any declaration, she had ascertained to us by a plain, independent,

unambiguous system of acting, that she was resolved to confine herself to a strict neutrality, and to resist all the demands of France for co-operation, either by contribution, or by hostile partiality, or by open and direct armament.

Upon this statement, which does not seem liable to cavil, I beg leave to put a case.

Suppose a foreign state be bound by treaty, when called upon, to assist our actual enemy not only with a considerable part, but with the whole of its forces by sea and land, so as to endanger our security and existence ; would not the circumstances of such a treaty oblige us to be particularly jealous of all the proceedings and armaments of that foreign state ?

If that foreign state, pretending that she will, notwithstanding treaties to the contrary, preserve neutrality, should, in defiance of that alleged neutrality, make all her ports, at home and in her colonies, not only places of asylum, but *hostile stations* for our enemy's privateers and ships of war; if she should not only permit them there to rendezvous and refresh, but if she should actually supply them with warlike stores, and lend the use of her docks for refitting them, and enable thus our enemy's vessels not only to cruise against our commerce, but to fit out expeditions against our colonies and territories; and if, in addition to these acts, which are all contrary to neutrality, she should suffer the enemy's privateers to take our vessels within the usual limits of protection which are prescribed by the laws of neutrality, and suffer prizes thus illegally

made to be brought into her ports, and there condemned and sold ; if further, upon complaint being made to such foreign state upon account of such barefaced infraction of neutrality, no satisfaction should be given, but the same partial and hostile course of conduct be continued ; if, lastly, in addition to these acts of adherence to our enemy, she should order her fleets to be equipped for sea, in all her ports, without any previous intimation to us of her intentions in making such orders, and without shewing that intention to be consistent with strict neutrality ; supposing, I say, all the above premises to be founded, would not the last act mentioned, viz. of equipping her fleets under such circumstances, justify an immediate act of vigour on our part, much more an act of *precaution*, such as an order to detain vessels bound to her ports with warlike stores or

treasure? Would such a measure be contrary to the law or the practice of nations; or would it not be consonant to both?

What I have stated as a supposed case, calculated to warrant a supposed conclusion, I now state to be the actual case with respect to the conduct of Spain, which has occasioned the recent measures adopted by Government, only that the conduct of Spain has been more outrageous than the case I have put supposes.

Is it not notorious to the whole world, that Spain has kept in her port of Ferrol a squadron of four sail of the French line of battle for a year? that they have been there careened, docked, refitted, revictualled, and furnished with supplies of ammunition and of men, for the purpose of making an expedition against the territories of his Ma-

jesty of the trade of his subjects, which they are hourly watching an opportunity of effecting?

Is it not notorious, that the island of Cuba has been made, not merely an asylum to all the French fugitives from St. Domingo, which was just, but that it has been converted into an *hostile station*, where our enemies have been enabled by the Spaniards to fit out innumerable cruisers against our trade, and whence an actual expedition was planned and prepared against his Majesty's colony of the Bahamas, which was merely disconcerted by the death of the General of it? Is it not obvious, that unless Spain allowed the island of Cuba to become a hostile station to the enemy, none of the enemy's vessels could appear in that part of the ocean, as they would have no harbour to refit in; and that, in consequence, the trade of Jamaica, which

is daily interrupted by their cruisers, would be in a state of perfect security ?

Is it not equally known, that many of our vessels have been captured by the French within sight of the Spanish ports, and within the known limits of neutrality, and being carried into their ports, have been there condemned and sold, though claimed, in vain, by our officers ?

And is it not clear, in respect of the law of nations, that we had a right to order against Spain acts of retaliation and reprisal, upon a course of conduct of so hostile and aggressive a nature, and so contrary to all laws of neutrality ?

When, therefore, we were authorized in taking measures of retaliation and reprisal before Spain began the armament of her

fleets in her ports, were not we warranted in taking measures of *précaution* upon this additional act of apparent hostility?

It is, however, objected that we were in a state of negotiation with Spain; and that we were bound, by the law of nations, to await the result of that negotiation, before we took any measures of precaution. Without discussing this point, I ask of those who make the objection, are they sure that we were in a state of negotiation with Spain, or at least in a state of negotiation respecting that measure of armament on her part, which produced the measure of detention on ours?

I rather suppose the contrary. I certainly believe that we had made representations against the Spaniards receiving in their ports and refitting in their docks, and getting ready

for sea, the enemy's ships of war, and against their making their ports regular stations for enabling the enemy to make expeditions against our trade and territories; and also against other infractions of neutrality. And I have heard that no satisfactory explanations had been given by Spain on these points.

If, then, she declined explanation, and eluded giving satisfaction respecting measures which must be considered measures of injury and annoyance; ought we to have continued mere complaint or mere representation alone, when she commenced a new measure in the midst of a negotiation on former points, which might endanger our very existence as a nation?

Surely a stronger line of conduct *then* became necessary, and it was our duty to adopt such a proceeding as should prevent

the continuance of all evasive and protractive conduct. It was necessary to fortify representation by a strong measure of precaution, and to obtain some security for justice, some pledge for peace, or to throw as much impediment as possible against meditated war.

I wish here particularly to make a distinction. I will allow that if you enter into a negotiation with a foreign power, upon any past measure of injury or aggression, which measure has not been followed up by continued or additional injuries, it is proper and becoming to wait the termination of the negotiation, before resort be had either to an act of precaution, or reprisal, or to a declaration of war.

But if, in the midst of a negotiation or discussion upon past injuries, those injuries be

repeated, and new measures of provocation, of offence, of hostility, real or apparent, be adopted, without previous communication, the case is completely altered, and the complaining and aggrieved power has a clear right to resort to new measures proportioned to the new cause of offence; and no longer to confine itself to mere negotiation or remonstrance.

What may have been our language to Spain? "We have," it may have been stated, "repeated complaint upon complaint, as to your infractions of the laws of neutrality. You evaded giving us satisfaction, and by your vague and evasive answers amused us: and during this scene of evasion, you not only continue the very acts we complain of, but commence a new measure of the utmost consequence to our security, and without any communication with us, order

a great armament, which apparently can have no object but to succour our enemies. We will therefore no longer content ourselves with mere complaints; we will no longer leave you to protract your discussions, but will take a measure, by which you will not be ultimately injured, if your intentions have been friendly, and which may enable us, in some degree, to frustrate your designs, if, contrary to your professions, they shall have been really hostile."

And, if our ministers have taken this line; if, on being informed of the armaments made in the Spanish ports, they have combined their remonstrances against it, with an immediate act of vigour proportioned to the nature of the case, can any man fairly consider their conduct as unwarranted by the law of nations, or fraught with a breach of faith on our part, and not

rather as founded on the law and practice of nations, with a view of exacting an adherence to the principles of neutrality, which Spain had been in a long continued course of infringing?

It is evident, that the conduct of Spain has, as I have stated, for a long period been hostile; but its hostilities have been confined to such acts as might render it prudent in us not to investigate them too deeply, or to avenge too abruptly; but when the nature of those hostilities began to alter their shape, and Spain discovered an intention of succouring France with all her powers, and to assist in the invasion of the United Kingdom; the justice of our cause being the same, the policy became different, and if we had longer dissembled, we might have done injustice to our country, and compromised its ruin.

But we have acted without a declaration of war, therefore our measure which led to taking the Spanish treasure was an act of robbery,—an act of piracy. In answer to which assertion, I merely beg leave to subjoin a passage from Vattel on this subject, who is considered, in the law of nations, as the greatest authority of the day.

• Book 2. Cap. 18. Sect. 353. “After having demonstrated the lawfulness of making reprisals, when we can no otherwise obtain justice, we may thence readily conclude that a sovereign is not justifiable in making forcible opposition to, or waging war against, the party who, by ordering or making reprisals in such a case, only exerts his just right.”

Sect. 354. “And as the law of humanity directs nations, as well as individuals,

ever to prefer the gentlest measures when they are sufficient to obtain justice—when ever a soveresgn can, by the mode of reprisals, procure a just indemnification, or a suitable satisfaction, he ought to confine himself to this method, which is less violent, and less fatal than war. On this subject, I cannot avoid noticing an error which is too general to be wholly disregarded. If it happens that a prince, having reason to complain of some injustice, or some acts of hostility, and not finding his adversary disposed to give him satisfaction, determines to make reprisals with the view of endeavouring to compel him to listen to the voice of justice before he proceeds to an open rupture,—if, without a declaration of war, he seizes on his effects, his shipping, and detains them as pledges—you hear certain men cry out that this is robbery. If that prince had at once declared war, they

would not have said a word, they would perhaps have praised his conduct. Strange forgetfulness of reason, and of every sound principle! Would we not at this rate be tempted to suppose, that nations were bound to observe the laws of chivalry, to challenge each other to the list, and decide their quarrels like a pair of doughty champions engaged in regular duel? It is the duty of sovereigns attentively to maintain the rights of their people, and to obtain justice by every lawful means, still, however, preferring the gentlest methods: and we again repeat the assertion—it is evident that the mode of reprisals, of which we are speaking, is infinitely more gentle and less fatal than that of war. But since between powers whose strength is nearly equal, reprisals often lead to war, they ought not to be attempted except in the last extremity. In such circumstances, the

prince, who has recourse to that expedient, instead of proceeding to an open rupture, is undoubtedly entitled to praise for his moderation and prudence."

I must add to this, that there is always a great difference between a single act violating the laws of neutrality, and a long course of acts of the same description; the one may be ascribed to accident, to misunderstanding of orders, and several other causes which may admit of fair explanation; the other can only be susceptible of two interpretations, either the hostile intention of the power itself, of whom we complain, or its incapacity to resist the demands of its ally; and neither makes any difference in the line we ought to adopt.

To this I must subjoin that, allowing that our order for detaining the Spanish trea-

sure-ships was an overt act of hostility, the measure was not an original measure on our part, but one purely flowing from a previous overt act of war on the part of Spain.

But it is said Government commenced an attack upon Spain, whilst we were in a state of amicable intercourse, and without the recall of our ambassador. Let me ask, in reply, whether this course of conduct on our part be not consonant to common sense and to common practice, and whether the reverse would not have been palpably absurd? If our object, as professed by Government, was to obstruct the hostile preparations making by Spain, with a view to induce their discontinuance, the residence of our minister at her court was palpably necessary, in order to unfold the nature of our measure, its foundation, its tendency, its justice, and to offer restitution, if Spain

would retract her preparations and return to a proper line of neutrality. Had we recalled our ambassador, by removing the medium of explanation and discussion, our measure of vigorous precaution could have been merely interpreted as a determined commencement of war, even if such a recall were not, in modern times, considered as in itself equivalent to a declaration of hostilities.

Whoever therefore admits, that an act of vigorous precaution and reprisal may be taken upon the principle of preventing a war, must at the same time acknowledge, that to accompany it with the recall of an ambassador, would be an act of direct inconsistency ; and it would be rather a curious attack upon ministers, to impeach them first for taking an act of precaution, because it might lead to war, and next for not re-

calling our minister, which would evidently prevent reconciliation.

I have however heard a rumour that some arrangement had been made with Spain respecting her conduct in the present war, and that it was one of the stipulations in this agreement, that Spain should not, during the war, commence any naval armament whatever in her ports, and that an intimation had been subsequently given by the British Court, that a departure from this agreement would oblige us to consider her as a principal in the war. I know not the particulars of these transactions, so as to state them with any precision; but if it shall hereafter be found, that an agreement was made, and a notice actually given of the kind I have mentioned, in which the Court of Spain acquiesced, it must be evident, that when Spain armed in defiance of

this agreement and notice, she either intended to play a collusive game in favour of France, not less dangerous than war, or to enter into direct hostilities against us. Let it be considered, that France may gain almost as much, if not more, by an armed neutrality in the ports of Spain, as by actual war. Suppose the Spanish fleets in the ports of Ferrol, Cadiz, and Carthagena, to be completely equipped for sea—suppose at the same time the most unequivocal expressions of neutrality or friendship towards Great Britain, on the part of Spain, must we not equally watch those ports in such a state of armament, whilst the *offensive* treaty with France remains, as if she were in a state of declared war? and what could so much serve the purposes of Bonaparte, as to oblige us to detach a great part of our fleet to watch Spanish ports, whilst Spain were to be regarded as neutral; and she were thus

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made an instrument of dividing and exhausting our efforts, without our being enabled to relieve ourselves from such an embarrassment by acts of retaliation and reprisal ; which, by crippling her powers, or diverting her wealth, or destroying her trade, or detaching her provinces, might either repay us for the damages of war, or procure us an honourable and lasting peace ?

I should think it sufficiently both disgraceful and disadvantageous to us, to permit Spain to purchase her neutrality by a contribution to our enemy of two or three millions a year ; but to permit her to add to this pecuniary aid the influence of a great fleet of observation, would be the extremity of baseness or of folly.

I opened this argument by laying it down, that the nature of the alliance existing be-

tween France and Spain gave us a clear right to consider any attempt of the latter to fulfil it, as a formal act of hostility. And the ground of this opinion is, that the intention of Spain cannot be separated from her treaty.

Here I beg leave to remark, that it is always essential to distinguish whether the neutral power against whose designs and preparations you feel obliged to take measures of precaution, be unconnected and independent, or attached by any *offensive* and defensive alliance, to the state with which you are at war. In the former case, the neutral power may probably have many justifiable reasons or pretences for increasing its forces, which, on discussion, may appear unobjectionable. In the latter, so long as the treaty remains in force, the *quo animo* stands recorded. Every armament of such a power,

must be referred to the treaty, and interpreted by it. They make one piece ; they constitute one act ; and the government that should permit them to be argued upon, as separate and irrelative to each other, must incur the imputation of wilful dupery.

What then is the situation of Spain ? She is bound to assist France with all her forces, without any reservation, in times of war. From the moment, therefore, of the re-commencement of hostilities between us and the latter power, her treaty became a *hostile manifesto* ; and so soon as the manifesto was followed up by acts tending to execute the treaty, it became an absolute *declaration of war* ; unless, at the period of commencing those acts, the treaty was declared void on her part. And the reason of this is obvious ; for a state which engages to support another in all its wars, with her

whole force, is no longer a mere ally, but an
ASSOCIATE.

Whilst, therefore, such a treaty as the one alluded to exists, whenever we are at war with France, Spain, so soon as she makes any hostile preparations, or commences armament, in fact, and in all legitimate construction, actually declares war against us.

Let us suppose it were not known, that Spain, when she began armaments in her ports, was connected by a defensive and *offensive* alliance with France, and that she had then, for the first time, published such a treaty ; would not every man have unanimously pronounced such an armament, connected with such a publication, as a formal and unequivocal declaration of hostilities ? Does it then make any difference in the case, that the offensive alliance has been several years concluded and published ? Or will it be in-

sisted upon, that what would have been tantamount to a declaration of war, if it had precisely accompanied the armament in point of time, is no proof of hostility, because it long preceded it? Must we reckon him only an enemy, who suddenly, and for the first time, denounces vengeance against us? and must we consider him not as such, who actually menaces our existence, merely because for a long period he has sworn against us *perpetual* enmity?

It has been above intimated, that there may be some agreement with regard to the neutrality of Spain in the present war; but if that agreement extends merely to pecuniary succour, and not to armament, the above argument against the conduct of Spain, is strengthened and aggravated by that agreement.

Wrong will not authorize wrong, nor in-

justice sanctify injustice ; yet sometimes the *argumentum ad personam sive ad invidiam*, is allowable in order to silence unfair crimination. Spain expostulates and cries out upon our conduct in detaining her treasure ships as unwarrantable, as unprecedented ! Might one not be excused in return to advert to the conduct of Spain, in commencing hostilities both in early and recent periods ? I shall, however, merely advert to the two last instances in which Spain was singly committed against Great Britain, because in those she seems to have acted on her own independent policy, and not as an ally or vassal of France. I allude to the transactions respecting Falkland Island, in 1771, and respecting Nootka Sound in 1790, in both which cases Spain, in times of profound peace, made direct aggressive attacks against the possessions of Great Britain, without the slightest previous intimation or notice whatever on her part.

And I introduce these two examples for several reasons : First, to disarm the argument *ad invidiam*, and to prove, that the Spanish court has at former periods, when it suited her interests, considered acts of precaution, of vigour, of aggression, previous to any notice of intended hostility, or any declaration of war, to be perfectly consonant with the law of nations, or at least to the maxims of her own policy.

Secondly, As to the two cases I wish to remark, that Spain in the one was justifiable, in the other not : and that her policy, in taking strong precautionary measures in both, as it ought not, so it did not, interfere with the just decision of either.

Thirdly, I would infer, that precautionary measures are preferable to declara-

tions of general war; because war, the greatest of human calamities, may frequently (as Vattel has laid down) be prevented by them, as was actually the case in the two instances I have adduced.

From which I would fourthly conclude, that whereas Spain, in the two cases with regard to Falkland Islands, and Nootka Sound, thought herself justified in resorting to acts of aggression without any declaration of war, and to consider those acts as mere pledges of ultimate justice; and whereas *we* did not feel ourselves so wounded in pride, as to make either attack a necessary cause of war, or a necessary bar to negotiation, it would have become her not to have looked unfavourably on our present conduct, but to have conceived it guided by similar dispositions to those which animated and directed her own policy in 1771 and

1790. And I have little doubt she would have adopted this candid and honourable line of sentiment, were she mistress of her own proceedings, and not enslaved to the mandates of a foreign tyrannical power.

I have stated that in one of the two cases above alluded to, Spain was warranted in her policy, in the other, not; and that although she in both commenced acts of aggression in the midst of peace, yet the decisions were such as if no hostile measures had taken place.

A short explanation is here required. We all recollect, when in the midst of profound peace, by a sudden, unforeseen, unexpected attack, Spain forcibly dispossessed us of Falkland Islands. What was the obvious and natural pretence for a conduct so apparently unprovoked, and of such extraordinary

violence? I ask candidly, had there not been symptoms manifested of our intending to make a regular settlement at these islands, and to fortify the harbours? And was it not reasonable for Spain to conceive, that it was impossible for us to commence such an expence, without a first design of rendering those islands, not mere places for watering South Sea whalers, or drying fishing nets, but of rendering them stations of war, depôts for provisions and arms, places of refreshment, of equipment, of assemblage; from whence, in any future war, we could attack her most valuable colonies with the greatest effect, and the utmost probability of success? It was evident that the islands were valuable to us on no other account; our projects respecting them could be explained with no other view, and Spain was justified, if we pretended any other intentions, to treat our duplicity and falsehood with scorn.

When she found, therefore, that, in pursuance of Lord Anson's policy, we had made a fortified position in these islands, she was naturally led to believe we should soon improve and strengthen it: and she truly felt that, if our real policy was in consonance with her suspicions, and she should permit us effectually to fortify the islands, her most important provinces would be placed in imminent danger should any new war break forth. She considered it, therefore, a duty which she owed to the interests and security of her empire, to take the earliest and the best pledge she could, that the safety and existence of her best provinces should not be put to hazard.

Now I conceive that every fair and dispassionate man will allow, that our fortifying Falkland Islands, and making them a place of arms, would have been palpably

dangerous to the very existence of the colonies of Spain in South America ; and this admission being made, he must consequently allow that their regular and rapid proceedings of Spain to disconcert such a project, if it was entertained, were justifiable on the solid principles of self preservation, however they were defective as to previous notice, or official intimation.

No man can forget the violent outcries of the opposition of the day, or the eloquent effusions of JUNIUS, when after this act of aggression the ministry condescended to enter into a negotiation, and terminated their discussions by a convention favourable to Spain. For though we obliged Spain to measures of apology and reparation for her act of aggression, yet we not only tacitly relinquished the right of fortifying the islands, but allowed Spain publicly, and without contradiction, to assert her right to the dominion of them,



Thus the court of Spain, by a timely act of vigour, obtained a convention necessary to the security of her empire, and to which she was in equity entitled, and which without such an act of vigour she would probably never have obtained at all. And I think there is no honest man who does not applaud the moderation and temper of our administration at that period; for if we had proceeded to war, we must have asserted and persevered in our determination to fortify Falkland Islands; and it was impossible to make such an assertion, without admitting that our object had been to destroy the security of the Spanish provinces, and consequently we must have justified Spanish conduct in endeavouring to frustrate our designs. And if we did not go to war with this resolution, it was clear that we should have gone to war for nothing but a punctilio, which, independent of the interests of a country, is no just cause for war at all.

Both the case and decision in the affair of Nootka Sound were extremely different. The Spaniards commenced their proceedings by a violation of peace, and by an act of aggression, but they proceeded on the mere principles of mistaken jealousy; for our possession of Nootka Sound could not be detrimental to Spain as a fishing station, nor dangerous from the probability of our making it a place of arms. Though Spain, however, had no pretence for her conduct, either in point of right or policy, our discretion and forbearance allowed us calmly and dispassionately to discuss the subject notwithstanding the aggression; and, as in the course of negotiation Spain could shew no right to the territory, nor prove any possible danger to her colonies from any settlement we could make at Nootka, she, of course, abandoned her pretensions, and we took the opportunity to induce her to enter into many

stipulations favourable to our navigation, and preclusive of future jealousy and misunderstanding.

The foregoing argument has been detailed in order to shew that acts of precaution, of vigour, of aggression, previous to a declaration of war, may be warranted by the law of nations, in certain cases, and under certain modifications ;—and further

That such measures are peculiarly warranted towards a power, which is bound by treaty to assist an ally, with whom we are at war, with all its forces by sea and land, and especially if such a power, in addition to various and repeated infractions of neutrality, has manifested an intention of making a general armament, and more especially still if she has promised not to arm at all, or if we have given notice that an armament should be considered as an overt act of war,

I should hope that what has been here adduced may be sufficient to satisfy a reasonable judgment. Yet it is rumoured, that the several parliamentary parties, who are unconnected with the present administration, intend to make their conduct with regard to the Spanish treasure ships, a leading subject for combined attack.

I cannot bring myself to believe a report apparently so improbable, for if such an attack be made, it must be founded on the abstract injustice and illegality, or on the ill-timed policy of the measure.

With respect to the former ground, I am entirely at a loss to conceive what party can possibly take the lead. Surely the attack will not be commenced by Lord Spencer, Lord Grenville, &c. who either directly advised or sanctioned the bold measures of pre-

caution which were taken upon the renewed project of an armed neutrality, which, in the war before the last, not having been treated as hostile, was in the last war considered, and justly considered, in that light.

Much less do I believe that the battle will be commenced by Mr. Addington and his friends, since, during the last negotiation with France, orders were issued by the late administration for preventing any French squadron from proceeding towards Turkey or Egypt, or from passing the streights of Gibraltar, or from entering any of the French ports in the West Indies and landing troops in them, or from proceeding from Helvoet to Louisiana. These were all measures of precaution and vigour, taken before any declaration of hostilities, adopted in the very height of a great negotiation, all calculated to prevent, *by force*, our enemy from profit-

ing by artifice, or from gaining the start of us under any pretence of amicable intentions. For these strong measures of precaution the late ministry claimed credit, and, as they deserved, received it.

Neither do I think, that the abstract policy of precautionary measures will be condemned by those who severely reprobated the tame and submissive forbearance of Lord North during the American war, when he suffered himself to be amused for two years by the professions of France with regard to her armament; and for a year more with regard to the Spanish armament; and for a year more with regard to the Dutch armament; and notwithstanding warning upon warning, denunciation upon denunciation, in and out of parliament, he chose, not to stand, but to sleep, upon the justice of his cause, and to suffer the enemy to com-

plete all their preparations for attack, before he would take any decisive measure to defeat or prevent them.

The policy of this conduct was proved in its effects. The acknowledgment by France of the independence of America was disavowed by Ministers long after it was published in Paris. The Toulon fleet passed the Gut before Admiral Byron could quit St. Helen's. On the instant Spain threw off the mask, Gibraltar was invested by the whole prepared force of the combined powers, and the Floridas were attacked before they knew of the war. Holland—I must here check myself, for although his Lordship permitted Holland repeatedly to refuse her contribution according to treaty, though he long confined his measures to mere complaint for the open protection and assistance she afforded our enemies, he

at last worked himself up to one act of precaution and vigour, and ordered a Dutch fleet of merchantmen, laden with warlike stores for France, and sailing under a convoy commanded by Count Byland, to be detained and brought into port, though, by the wretched manner in which the detention was planned, its effects were almost defeated. It is curious, however, to observe the remarks upon this transaction in the Annual Register, which was at that time, though perhaps not entirely written, yet certainly in the historical part revised by Mr. Burke. The passage I allude to is as follows:—"The
 " apparent vigour of this measure, and the
 " semblance it from thence bore to the great
 " and decided measures of happier times,
 " rendered it in some degree a favourite with
 " many people, who from thence argued a
 " renovation of our ancient spirit in council, and fortune in war."

But granting the abstract question as to the justice of precautionary measures before a declaration of war under certain restrictions ; allowing the happy issues of this policy in numerous instances ; admitting that in the case before us the equity of our proceeding is unquestionable, many objections may be easily started from a different source.

The measure, it will be said, was, in point of time, impolitic.

We increased the number of our direct enemies, when it was our obvious duty to diminish it.

We did injustice to the inclination of Spain, who, in the last year, paid three millions in order to preserve her neutrality for our sake.

By taking the Spanish galleons we deprived Spain of the power to buy off her hostility this year, as she did the last. We forced her into war by depriving her of the means to purchase peace; and Bonaparte will urge *qui non luit in crumena luat in corpore*.

Besides, suppose she had equipped her men of war, and we had connived at the armament, she would, from good feeling towards Great Britain, have rendered its operations inefficient.

We have also by this measure compromised our most valuable ally, and endangered Portugal.

We have further touched Spain on the nicest point of her honour, and placed her on the pinnacle of pride and punctilio.

We have lastly given a new pretext for Bonaparte to display his forbearance and moderation, and enabled him to vindicate his future conduct with regard to Spain and Portugal, whatever they may be, from the outrageous violence of our aggression.

This seems a very plausible, though not a very powerful, chain of argument, as it falls to pieces link after link, on the resolution of a single question: Was Spain arming, or was she not?

If she was arming in addition to her former violations of neutrality, so long, so repeatedly complained of; if she was arming whilst her treaty to assist France with all her powers continued in force and activity; if she was arming notwithstanding her agreement not to arm *at all*; the question is

solved. The policy we acted upon was not mere deliberation, but necessity. We were called upon by the controlling principle of self preservation. We were obliged to adopt the only probable means of defeating war with Spain, by endeavouring to cut off its sinews, and to prevent its effects.

If any man can prove Spain at the present moment to be a real independent power, capable of acting according to its own will, reason, and interests, I will not even cavil upon the objections which have been adduced.

But Spain, most unfortunately, is at present a miserable automaton, moved by a powerful, but not an invisible hand. She is a mere dependent and vassal of France, and if in this state of servile degradation she gives evident manifestations of becoming an accomplice in the desperate attempt of con-

•

summing our ruin; are we to become, upon that, or any other account, the dupes of her impotency, to act as a friend, or of [Bonaparte's mandates to her, to act as an enemy?

I may acknowledge, though with great difficulty, hesitation, and reluctance, the expediency of allowing Spain to purchase, by a limited and ascertained contribution, a continuance of her seeming neutrality from France, and not to consider the inglorious purchase, as hostile, though, perhaps, without it, Bonaparte could not persevere in his course of aggrandisement. I may acknowledge that it may be politic not to enter into war with Spain on account of the numerous infractions of neutrality, against which we have remonstrated, provided the course of that subaltern hostility be in future moderated or discontinued.

But so soon as she assumes the attitude of acting against us with her whole force, and of assisting France with all her powers, our discretion, our choice is at an end; we have no alternative as a wise and gallant nation, unless it is wise and gallant to persuade ourselves that the powers which Bonaparte can arm, he will not permit to attack us, and that when he is enabled to strike the blow, his hand will be checked by humanity and compunction?

Let us give pretext to attack from opposition, let us afford a pretence to a haughty manifesto from Spain, let us present an opening for a new composition of lies and outrage from St. Cloud—but let us not expose and sacrifice ourselves as victims to the humanity and compunction of Bonaparte.

Can it depend upon our conduct to continue Spain a neutral power, when she can-

not depend upon herself? What security can we take from her when she is not *sui juris*, when she acknowledges herself unable to direct her own affairs, and takes Bonaparte for her curator ?

When Bonaparte began to make armaments, though of no great extent, in the ports of Holland, the late administration, most wisely in my opinion, considered them as acts of meditated hostility ; and when Spain, governed by Bonaparte, directs armaments to commence in all her ports, I suppose the present administration will be excused in ascribing them to a similar intention ; and as we are already at war with France, such armaments are not subjects of negotiation, but of retaliation ; they are not to be represented against, but resisted and defeated ; for whilst Spain remains under the power of France, as at the present time,

an armament in a Spanish port is to be considered not less hostile, than an armament in a French port; and the equipment of ships of the line at Ferrol and Cadiz, are to be treated in the same manner as preparations at Rochfort and Brest.

The misfortune of the present period is, that neutral nations have all lost the spirit of neutrality. The principles of neutrality are merged in submission and subserviency. Is Switzerland any longer a neutral power? No, she is a mere servant to France! Is Holland any longer neutral? Alas, she is a slave, and not even allowed the formality of giving out orders in her own territories? Are the states of Germany contiguous to France, and open to French invasions, any longer neutral? No; they are miserable dependants, whose princes or governments Bonaparte insults and plunders at pleasure,

and treats with less ceremony than a gentleman would shew to his superior domestic. What can we pronounce with respect to the Italian states, who are bridled and controlled by French garrisons, and feel themselves happy and favoured whilst they are not obliged to enter into active war against us? Spain—is she neutral? No; to prevent her being actually engaged against us hitherto in a war notoriously unjust, she was obliged to ransom her feelings, if adverse to France, last year with three millions of money. Ransom is no longer admitted; the slave must serve; Spain, possibly against her will, is ordered to arm, and obliged to obey; against that armament we are forced to prepare; and though we lament that we must fight Bonaparte through the sides of Holland, and through the sides of Spain, we still must not shrink from our duty out of reluctance to en-

counter what necessity imposes, nor be duped by principles or sentiments, which, applied to independent nations, may be wise and politic, but which applied to subject and vassal courts, must tend to the ruin of those who trust them.

But let us for a moment look to the past conduct of Spain, and consider whether there was the slightest probability of preventing her from joining in the war against us, if we had strictly confined ourselves to the humility of complaint, and continued to watch her armaments with the most punctilious dread of interrupting them.

Only trace her conduct from the period of the Bourbon contract to the present day. Look to it in the war of 1757, towards the termination of which, notwithstanding her professions, she joined France with all her

forces. Examine her conduct again in the American war, when in a cause, which struck at the principle on which the connection and existence of her own colonies depended, she forgot or sacrificed every feeling of ancient policy and future interest, for the gratification of combining with France for our destruction. Examine further her conduct in the last war, after she had long fought by our side as our ally, and was only forced by defeats into a disgraceful peace; did she not within a few short months sink again under the influence of the power she then abhorred? Did she not join the murderers of the Bourbons against her recent ally? Did she not detach to Brest fifteen sail of the line, in order to effect a descent upon Ireland, and combine with a Jacobin army in the invasion and dismemberment of Portugal? If such was her mode of acting in the two wars, when she was under the

milder influence of the house of Bourbon; if such were her proceedings in the last war, when the principles of a common cause and a common alliance with us were fresh in her memory, what had we to expect, when she had accustomed her neck to the yoke of Bonaparte, when she submitted with only a seeming reluctance to the goad, and no longer struggled against her driver?

There still occurs to me another line of objection by which administration may be attacked. It may be alleged to ministers—You may be defensible in point of the usage and law of nations, you may be justified in policy as to the measure you dictated, but you are inexcusable as to the manner in which it was executed. It was your bounden duty to have provided, that your act of precaution, as in the case of Falkland's Islands, should have been carried

into effect by a superior force, fully sufficient to prevent resistance and bloodshed; whereas you sent out a force of the very description calculated to produce both.

I do not think there is much value to be ascribed to this argument, supposing the fact, on which it is built, were strictly true. For it would follow if this argument were sound, that a measure of precaution, vigour, and reprisal should never be taken, whenever any resistance could be apprehended, or it were possible that an order on the point could be disputed; which would operate so much in favour of the powers of the first order, and so entirely against the interest of inferior states, that it evidently proves too much.

I confess, however, that in true justice and policy, all nations, not only with regard

to acts of precaution, but also with regard to all expeditions in war, ought to use, if possible, such a superiority of force as may prevent contest and effusion of human blood; yet I cannot limit this position so far as to decide, that without such a superiority no nation ought to hazard an engagement, either directly for conquest, or provisionally for security. All that is fairly required is, that governments should exert their utmost power to effectuate their legitimate and necessary objects with the least possible injury to others.

If, however, what is reported be true, the principle here inculcated was not neglected by Government, though from accident its application failed. I have been informed, that orders were dispatched to the commander of a ship of the line, then at sea, to join the squadron of frigates which was des-

tined to secure and detain the Spanish treasure-ships, and that if he had not casually been off his station, when our *avisos* arrived, *that* commander would have been the bearer of his Majesty's orders to the Spanish admiral, who of course, under such a circumstance, would have hardly disputed them.

Such are the grounds on which it appears to me, that the order for detaining the Spanish treasure-ships is justifiable. Many additional arguments might be brought for solving and refuting objections, but to my judgment one alone seemed necessary to dwell upon, viz. that when Spain arms, we contend not with Spain, but Bonaparte. I believe nothing can exceed the reluctance of the people of Spain to enter into war with Great Britain, but the reluctance of Great Britain to commence a war with Spain.

But both countries are at present actuated by compulsory motives, which the one dares not, the other ought not to resist, though of a different kind; the former by the servile submission of its ministry to the tyranny of France, the other by the fixed resolution of the government and the people to maintain, against every combination of power, their freedom and independence.

P. S. Since the above pages were written, a pamphlet has appeared from the author of "Cursory Remarks," which seems to be a very hasty and intemperate effort, in which the author appears merely industrious to inflame, and careless of convincing.

Most of the topics he adduces have been discussed in the argument I have stated; or are refuted in the Treatise of Lord Liverpool, from which he has taken his motto.

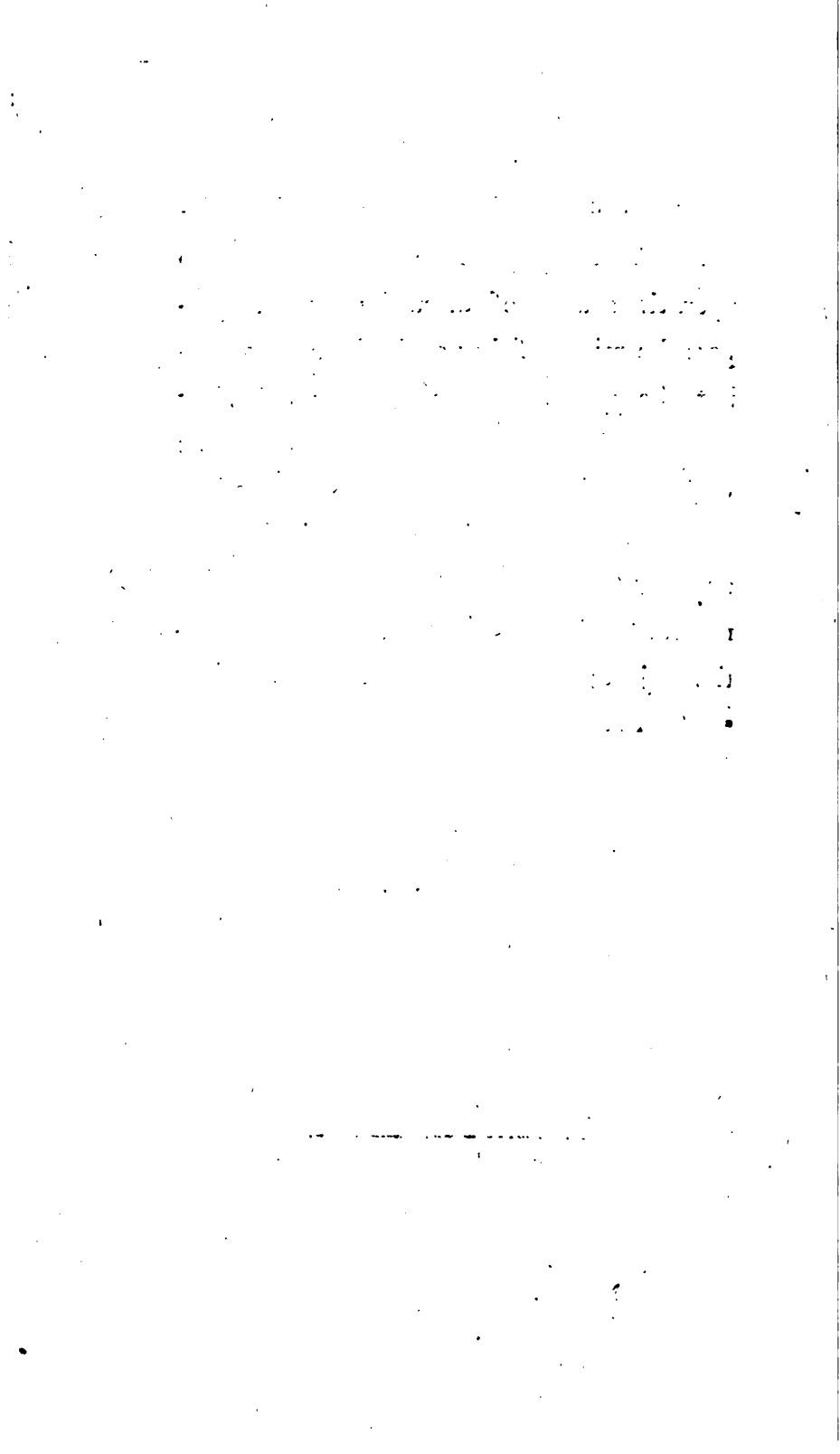
And surely it would be lost time to detain the reader, by demonstrating the absurdity of comparing the late order for detaining vessels bound to Spain with treasures or war-like stores, to the seizure of the *Smyrna* *Reet* by Charles the Second; or by refuting an author, who disclaims entering into any of the circumstances of his adversary's case, or discussing the merits of the question.

It is a paltry triumph to refute a writer, who mistakes a contrast for a parallel; nor would there be much ingenuity in exposing a judge, who, without hearing evidence, should pronounce the act of killing to be murder, when the evidence, if heard, would have proved it justifiable and in self-defence.

The object of this author is, to raise a prejudice upon the subject, so as to prevent the nation, if possible, from receiving any ex-

planation of it with candour and impartiality. The object of my argument is, to open the sources of discussion, and to prepare the minds of the people for understanding the justice of our cause, when they shall be called upon to support Government with all their energy and vigour ; since it is obvious from what I have adduced, that our conduct towards Spain may have been, with respect to the principles of the law of nations, just ; and with respect to the public safety, necessary.

THE END.



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